GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

COURT CASES-AIDED-Orders of the Hon'ble High Court of A.P. in W.P.No.9503 of 2005 and batch cases dated 30.07.2013-Interim Orders in W.P.M.P.No.663/14 in W.A.No.216/14 (filed against W.P.No.9503/05), dated 25.02.2014-Orders of the Hon'ble Apex Court in S.L.P.No.8547/2014,dated. 14.09.2015-Implemented-Ban Memo. No. 18836/ CoSE/A2/2004-4, dated20.10.2004-Withdrawan with immediate effect – Orders - Issued.

SCHOOL EDUCATION (PS) DEPARTMENT

G.O.MS.No. 40 Dated: 30-06-2017

Read the following:-

1. Govt., Memo.No.12080/COSE/A2/2004-4,Education(CoSE)Deptt.,dated 20.10.2004.
2. Govt., Memo.No.8544/PS-1/2005-3,dated 14.11.2005.
3. Hon'ble Court orders in WP No.9503 of 2005 and batch dated 30.07.2013.
4. Interim orders of the Hon'ble High Court of A.P.In W.P.M.P.No.663/14 W.A.No.216/14 (filed against W.P.No.9503/05), dated 25.02.2014.
5. Hon'ble Apex Court orders in S.L.P.No.8547 of 2014,dated 14.09.2015.

****

ORDER:-

In the reference 1st read above, orders have been issued by the Government imposing ban on creation/ filling up of existing aided posts in the aided Schools/Institutions. Further, it was clarified that the above ban is applicable to promotions and appointment on compassionate grounds in Aided School, vide reference 2nd read above.

2. Whereas, certain Aided School Managements have approached the Hon'ble High Court of A.P, by filing W.P.No.9503 of 2005 and batch ,challenging that the same is illegal, arbitrary, violative of Constitution of India.

3. The Hon'ble High Court of A.P in its order dated 30.07.2013 in W.P.No.9503 of 2005 and batch, while allowing the Writ Petitions, has passed the following orders vide reference 3rd read above.

Xxx

"Accordingly, these writ petitions are allowed declaring that the impugned Memo in Memo.No.12080/COSE/A2/2004-4 issued by the Principal Secretary to Government, School Education, dated 20.10.2004 (first respondent) is illegal, arbitrary and violative of Articles 14,21-A and 45 of the Constitution of India and direct the respondents to accord permission to the petitioners institutions to fill up the vacant grant-in-aid posts in accordance with the Rules. The petitioners have not agitated above the other reliefs sought for and the same are, consequently, not granted. There shall however be no order as to costs."

4. These orders were also extended to the other Writ Petitioners (Managements), who filed by Writ Petitions in the Hon'ble High Court of A.P:

5. Aggrieved with the above orders of the Hon'ble Court, Govt., have preferred Writ Appeal Nos. 70/14,**216/14**,222/14,223/14 before the Hon'ble High Court of A.P. The Hon'ble Bench vide reference 4th read above in its' order dated 25.02.2014 in W.A.M.P.No.663 of 2014 in **WA No.216/14** (filed against W.P.No.9503 of 2005) have made the following orders.

"While considering the interim relief, we are of the view that absolute stay of

Contd..2

operation of the impugned judgment and order of the learned trial Judge will not be permissible. The learned trial Judge has prima facie held that the ban imposed by the State is not acceptable under the Constitution. However, this decision is under scrutiny before us.

Therefore, considering the balance of convenience, we feel that the respondent-management will be free to appoint teachers and for this purpose, temporary permission must be granted within seven days from the date of receipt of this order. This factum of granting permission should not be given any weightage or advantage in favour of the respondent at the time of hearing of the appeal. Everything will abide by the result of the appeal. Once the permission is granted, the respondent-management will be free to appoint teachers in accordance with the rules and for the time being, the salary of the teachers shall be borne by the management. It shall also be notified to the appointees that this appointment will be subject to the result of the appeal".

We pass this order keeping in view the interests of the students at large. In the event, this appeal fails and the judgment and order of the learned trial Judge is upheld, then the appellants shall pay grant-in-aid as permissible under the Rules with interest at 9% per annum from the date of passing of the judgment of the learned trial Judge. All points are kept open".

6. The above orders were also extended by the Hon'ble High Court of A.P in other W.A.Nos.222/14 and 223/14, dated 14.03.2014.

7. Further, Govt., have approached the Hon'ble Apex Court by filing a S.L.P No.8547 of 2014 and 8430-28435/2014 against the above orders.

8. Whereas, with a view to resolve the problem relating to Aided Schools including the ban Memo., a Committee consisting of 3 officials and 3 non-officials (PRASMA) has been constituted to give suggestions/recommendations to the Govt., to solve the problem. The Committee in its' report among other things, recommended for withdrawal of ban Memo.also.

9. Subsequently, the Apex Court in S.L.P. (C) No.(s) 8430-28435/2014 and 8547/2014,dated 14.09.2015 has finally passed the following orders on the interim directions of the Hon'ble High Court, dated 25.02.2014 in W.A.M.P.No.663 of 2014 in **W.A. No.216/14** vide dated 25.2.2014 and 222/14,223/14 dated 14.03.2014 and batch.

"The High Court has protected the interest of the State by making it clear that the appointments, if any, are to be made subject to the final result of the appeals pending before the High Court. The High Court has also clarified that for the time being the salary being paid to them shall also be subject to the final outcome of the appeals.

We do not find any merit in these special leave petitions which are accordingly dismissed."

10. Keeping in view of the judgement of the Hon'ble Supreme Court of India, dated 14.09.2015, and to avoid legal complications, Govt., permitted all the District Education Officers/Regional Joint Directors of School Education in the state of A.P to grant temporary permission to all the Managements of Aided Schools covered in all court cases covered under the judgement of High Court of A.P in W.P.No.9503 of 2005 and batch, dated 30.07.2013, subject to outcome of W.Ps/W.As/SLPs etc., if any, on certain conditions vide Memo.No.18836/PS/A2/2010,dated 03.12.2016.

Contd.3

11. Government now, after careful examination of the entire matter hereby decided and order to withdraw the ban memo. issued in the reference 1st read above completely, with immediate effect.

12. The Commissioner of School Education, A.P, Ibrahimpatanam, is further informed that the modalities for recruitment of the vacant aided teacher posts will be issued separately.

13. The Commissioner of School Education A.P,Ibrahaimpatnam, shall take further necessary action in the matter.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

ADITYANATH DAS
SPECIAL CHIEF SECRETARY TO GOVERNMENT

To
The Commissioner of School Education, A.P, Ibrahimpatanam
Krishna District.

Copy to:

O.S.D to Secretary to Chief Minister.
P.S to M (HRD) P.S to Spl.Chief Secretary, Education,A.P.
General Administration(Ser)Department.
Finance(FMU.Edn)Deptt.,
Law Department.
SF/SC

//FORWARDED:: BY ORDER//

SECTION OFFICER